



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

NOVEMBER 30, 2010

PRESENT: Mueller, Moniz, Tanda, Benich

ABSENT: Koepp-Baker,

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Linder

Chair Mueller called the meeting to order at 7:04 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Planning Manager Rowe certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

MINUTES:

November 9, 2010 **November 9, 2010 Draft Minutes to be included in the next Planning Commission Meeting Packet.**

ORDERS OF THE DAY **No changes.**

CONTINUED
PUBLIC
HEARINGS:

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 2

1)DEVELOPMENT
APPROVAL
AMENDMENT:
DAA-05-01F:
COCHRANE-
MISSION RANCH
AND CHANGE TO
RDGS CHANGE
POLICY

A request to amend the development agreement for the Mission Ranch project to incorporate current BMR Reduction extensions recently approved by the City Council and update the number of BMRs required per phase. Also requested is a modification to allow construction of wheel chair accessible units in-lieu of units with alternative garage configurations. (APNs 728-32-001, 002, 003 & 728-33-01)

Linder presented her staff report.

Mueller: Please explain what “visitability” is.

Linder: It accommodates people with disabilities by utilizing wider hallways, providing wider doorways and bathrooms, master bedrooms on the ground floor, etc.

Moniz: From the last sentence of the new policy, what is considered a “significant deviation?”

Linder: Where the applicant reconfigures lots, the unit sizes change or go from attached to detached—where there are so many changes that it has to be brought back to the Planning Commission for reevaluation.

Moniz: For the majority of the changes, it’s handled at staff level?

Linder: Yes, unless the changes are so great it has to come back to the Commission.

Tanda: Since they’re not asking for a full 25 percent of the units having “visitability,” do you award partial points?

Linder: Under the scoring criteria, it’s all or nothing. Partial points can’t be awarded. And since it’s such a small number being affected, and value is being exchanged for value, it makes sense to approve it.

Mueller opened the floor to public hearing.

Dick Oliver of Dividend homes appeared.

Oliver: The reason this is an issue for Mission Ranch is that it is an R-1 7,000 project. In some of the smaller lots, it’s much more difficult to get a side loading garage. Additionally, we have two prospective buyers who are interested in homes with visitability. That is what prompted this request. We’re probably never going to ask for the maximum number of 8 “visability” units. We probably won’t have that many buyers ask for this feature. But this allows us to accommodate those requests.

Tanda: What if you lost a point and you were above the next highest scoring project by only a point or two?

Oliver: This project was the highest scoring by quite a bit in 2004.

**PLANNING COMMISSION MEETING MINUTES
NOVEMBER 30, 2010
PAGE 3**

Mueller closed the floor to public hearing.

Benich: It seems that the statement on Page 1 Paragraph 1 that says, “changes to a project (1) is encouraged to improve its quality” should be where the statement stops. Item (2) might just make it more open ended.

Linder: Item (2) is meant to address projects that are still coming in for entitlements. It’s just saying in words what might occur anyway. That statement in bold is already in the policy. It’s not a change. The next paragraph deals with the change.

Tanda: Shouldn’t we state what our current practice is, and that if we’re losing a point somewhere that a project might be allowed to make it up somewhere else? I could support the motion if it had that language.

Linder: I think that could be added to item 1.

**COMMISSIONERS MONIZ AND BENICH MOTIONED TO APPROVE
THE POLICY AS AMENDED**

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE: ABSENT:
KOEPP-BAKER**

**COMMISSIONERS MONIZ AND BENICH MOTIONED TO APPROVE
THE AMENDED DEVELOPMENT AGREEMENT WITH CHANGES TO
THE SECOND PARAGRAPH TO CLARIFY THAT A PROJECT WOULD
RECEIVE THE SAME OR HIGHER SCORE WITHIN EACH SCORING
CATEGORY AND IN THE TOTAL RDCS EVALUATION**

**THE MOTION PASSED (4-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE: ABSENT:
KOEPP-BAKER**

**OTHER
BUSINESS:**

**2) RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)
DISCUSSION OF
GLOBAL ISSUES
FOR THE 2010-11
COMPETITIONS**

Discuss global scoring issues and procedures for conducting the public hearings on December 14, 2010.

Issue 1: Eligibility to compete under the Senior Housing Competition Category.

Jim Rowe: Senior housing is defined in the municipal code as any project type designed for persons 55 years or older. We received an application for a senior project from Dividend Homes but it received no points because it didn’t meet the state criteria for seniors. The state has several requirements for a project to be categorized as senior housing. This project did not receive a minimum score under Part A, so it’s not eligible for building allotments. But this needs to be addressed

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 4

for future RDCS competitions by modifying the Council's implementation policies to be in line with state requirements. In this particular project, many of the units are two levels. We don't require floor plans, but it is assumed that elevators aren't provided for units with second levels.

Mueller: The schools section of the narrative seems to make reference to the senior section of the state code.

Rowe: Erwin Ordonez, the Housing Manager, awarded no points because the project doesn't meet state standards.

Tanda: 51.2 Provision (D.4) of the Civil Code says, "Access to all common areas and housing units within the development shall be provided without the use of stairs...." What is this project intending to do? It would be good to hear from the applicant.

Mueller opened the floor to public comment.

Dick Oliver of Dividend Homes appeared.

Oliver: We were never told by staff that this project didn't meet the Part A requirements. You cannot impose state requirements after-the-fact for things that are not included in the RDCS policies at the time of the competition. We added the tot-lot for seniors to have a place for their grandchildren to play. Additionally, most of these have units have master bedrooms on the first floor but it's not a city requirement.

Rowe: There will be an opportunity on Dec. 14th to respond specifically to Mr. Oliver's project, so the final scoring for his project won't be until January 11, 2011, but the global issue tonight is for clarification for future competitions. When we define the senior housing category, we want to make sure we're not in violation of state housing laws for future competitions.

Mr. Oliver: Thank you.

Mueller called for a break at 8:05 pm and reconvened at 8:15 pm.

Rowe: I understand there is consensus among the commission that staff should go back and make certain our definition of senior housing is consistent with state housing laws.

Issue 2. Evaluation of Future Applications / Remainder Parcels in Planned Development Projects.

Rowe: Developers are encouraged to prepare a master plan that addresses the future build-out of a project and to apply the zoning to the property. A project can receive points for Orderly and Contiguous and the lot layout categories when the design is above average. One of the applications this year received 34 allocations in the 2004/05 RDCS competition. This project (Sherimar Ranch), as originally proposed consisted of 118 lots on 42 acres, In 2009 a zoning of R-1 12,000 was

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 5

approved. Under the current RDCS application, they are requesting a 56-unit building allocation on just 24 acres of what was originally 42 acres. The balance is not a part of the current development and has separate ownership. The current owner was not able to reach terms with that owner, so it could not be part of this year's allocations. The future (final phase) project would not compete very well because it wouldn't receive credit for the open space that is part of the whole development plan. Staff is requesting policy direction on whether the balance of the development should be considered as a stand-alone project, or be counted as a future phase of the current project for scoring purposes. In a similar request, staff is requesting policy direction on whether an adjacent property (Kuwabara property) that was never part of the original RDCS application but was included in the Master Plan, could be accepted as a final phase of the overall Morgan Lane/Warmington Master Plan for scoring purposes. The difference in the two projects is that the first one included the remainder parcel in a previous application, but in the other it was never part of an application but was shown on the overall Master Plan. There would probably need to be an annexation of the final phase to the existing HOA.

Benich: Is it normal for a developer to put forth a planned development that has multiple owners that then must come to an agreement?

Rowe: In Morgan Hill that's more of the norm. That's the way the Sherimar Ranch project was originally.

Mueller: As an overall project, the Sherimar Ranch planned development is a lot nicer now that it's been assembled than the projects were years ago when they were separate parcels.

Moniz: Would the new homes and homeowners have accessibility to the open space and pay toward their maintenance?

Rowe: It would be recommended that the future applications be annexed to the HOAs for the entire project, so that the residents would have access. Otherwise, they would not. It would be in the best interest of the HOAs because then the fees are split between more people.

Mueller opened the floor to public comment.

Bill McClintock appeared on behalf of KB homes, the developer at Sherimar Ranch.

McClintock: Without being assembled, these parcels were virtually undevelopable on their own. In this case, the master plan did show all of the lots in the 2004 application. So it should be scored on the whole project. The infrastructure was designed for the project as a whole. The reason for the new application is that KB wanted to formalize the agreement with the landowners for commitments to do improvements. We hope that you would view this as one project and score it accordingly.

Tanda: Are you representing both parcels and both ownerships?

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 6

McClintock: I am representing all but the 26 units which are on the 8-acre Martinez parcel.

Tanda: Isn't that the issue, though? We don't have a problem with the 34 acre parcel.

Rowe: That is correct.

Rocke Garcia appeared on behalf of the Kuwabara property.

Garcia: The Kuwabara piece is adjacent to the Siena project. We have met with the Warminton HOA and it is our intent to join that HOA. It is financially beneficial to us. This is what you might call an elbow cul de sac. When Mr. McClintock did the original improvement plans, he did include this piece of property. And it should be counted as a final phase.

Dick Oliver appeared in support of both projects by stating that it is in the city's best interest to get these remnants resolved in a good way.

Mueller closed the floor to public comment.

Tanda: It seems that these developers want to get credit or points for amenities, so they should have to pay their fair share of the open space, recreation and public facility improvement costs of the larger/original RDCS applications.

Benich: When a planned development is approved for a block of land, in my mind it is acceptable to consider these fill-in projects as part of the whole project and that makes sense as a way to deal with these remainder pieces.

Moniz: These remnant pieces would probably never be able to score enough points on their own, so it makes sense to consider them as part of a bigger picture.

Mueller: It seems it will be beneficial to all parties, including existing homeowner associations, to include the remainder parcels in the overall project.

Issue 3. Acceptance of Commitment Letters for Right-of-Way and Completion of offsite public improvements.

Rowe: The Diana-Sherimar, W. Edmundson-UCP, and Piazza Way-UCP applications are requesting points under the Circulation and Efficiency category. For scoring purposes, the City has required applicants to provide written confirmation of agreements with adjacent property owners for the completion of the street extensions beyond the project's boundary. During the interviews, the applicants indicated that they had agreements. But The confirmation letters were submitted after the interviews and after the October 1 filing. The reason this is before the Commission is that anything submitted after Oct. 1 constitutes new information and cannot be considered as part of the application for scoring. In the case of Sherimar, the agreement letters were dated and signed in August. We're comfortable at a staff level recognizing them. In the case of the UCP application, the agreement letter was not approved and accepted until Oct. 19. However, they

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 7

did provide an email prior to Oct. 1 saying they had reached an agreement. If we don't accept the commitment letters, we would need to lower the scoring for these projects. We are asking for direction from the Commission.

Moniz: I had email correspondence with the applicant today.

Mueller: I did also.

Mueller opened the floor to public comment.

Bill McClintock of MH Engineering appeared.

McClintock: On a global level, these approval letters are very basic. I don't consider them additional information. We wouldn't make the commitment if we didn't think we could get their approval. It seems if you can get the letter before the scoring, then you should get the points. Specifically about Sherimar, they had agreements since 2004. To think that we had to go back every year and get new letters was not something we thought we had to do.

Mueller: The requirement for these letters has been in place for about 15 years.

McClintock: We've actually been given two weeks in previous competitions.

Mueller: Not for years.

Michael Cady of UCP appeared.

Cady: We are the applicant on two of the three projects. For our projects, as Jim pointed out, we did submit an email from PanCal where they agreed to the easements. So I guess I disagree about the interpretation of whether or not they were submitted. And they were included in the Oct. 1 applications for both projects.

Moniz: That was in the packet and was authored by PanCal?

Rowe: Yes, the email from Leonard Huffman who is with PanCal was included in the applications. There is an agreement letter dated October 12 that is much more specific; the email was more general. The question is if the email is sufficient?

Benich: It seems that what is important is the intent. In this case, it seems the intent was met.

Moniz: What do you consider written confirmation?

Rowe: When this policy was established, email didn't exist. But we could probably consider this as acceptable. Certainly, the letter of October 12 is preferable because it goes into specifics, so it's easier to base our staff evaluation on that. It's hard to score based on the information in the email.

Moniz: What is the precedent for written confirmation? Do you expect a binding

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 30, 2010

PAGE 8

contract?

Rowe: It doesn't have to be a binding agreement, but it does need to be from the property owner.

Tanda: I believe all three projects qualify to meet the exception for the Oct. 1 filing deadline and should be allowed.

Mueller: I agree that the projects met the intent. But specific documentation from the adjacent property owners is important, because in some situations the project wouldn't qualify for the points.

Rowe: There are nine public hearings, because one is a micro project that is done on an administrative level. It is helpful that any ground rules be determined in advance for the benefit of the public. So you may want to establish a time limit for people to speak. That way, we will hopefully get through the hearings in one meeting.

ANNOUNCEMENTS / COMMISSIONER IDENTIFIED ISSUES

City Council will be conducting interviews for the applicants applying to fill the two empty commission seats. That meeting is scheduled for 6:00 pm on December 15th.

Tanda: Joining this commission is a challenge, and people need to know what they're getting themselves into, especially with regard to RDCS. It seems it would be appropriate to strongly encourage the candidates to come to the meeting on the 14th to get acquainted with RDCS.

CITY COUNCIL REPORTS

Rowe: There was an information item presented to the Council indicating that on Oct. 26th, the City's housing element was certified. Of the 15 jurisdictions in Santa Clara County, we are one of only seven communities that have been certified for the 2007-2014 period. Additionally, the Planning Directors of the different communities will be getting together to discuss whether the jurisdictions want to follow what San Mateo County did using SB 375 for sustainable communities for future periods.

Tanda: Another thing to think about is the population cap that we will soon be reaching. What will happen with RDCS at that time? What are our options?

Benich: Did the City Council indicate when they're going to form the General Plan update committee?

Rowe: In their goal sessions, they targeted FY 2011/12, if we can afford it.

Mueller: That way the 2010 census information can be used.

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 9:30 p.m.

**PLANNING COMMISSION MEETING MINUTES
NOVEMBER 30, 2010
PAGE 9**

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician

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